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EXAMINER
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PIAZZA CORCORAN, GLADYS JOSEFINA

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/938,065

Applicant(s)

BERSUCH ET AL.

Examiner

Gladys J Piazza Corcoran

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. The amendment filed July 14, 2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: There is no support in the original Specification for "Inner surfaces 43, 45 are perpendicular to each other, and the outer side is slightly concave." The original drawing figures do not clearly show that the surfaces 43 and 45 are perpendicular to each other nor that the outer side is concave.

Applicant is required to cancel the new matter in the reply to this Office Action.

### *Claim Objections*

2. Claim 14 is objected to because of the following informalities:
- a. Claim 5 recites, "outer surface of the base and the legs preform" which should be -- outer surface of the base and the legs of the perform--.
  - b. Claim 14 recites, "to remove tool" which should be --to remove the tool--.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 1733

4. Claims 9, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 9 recites the limitation "the components" in line 2. There is insufficient antecedent basis for this limitation in the claim. Since there are first and second components in claim 1, it is unclear which component is being referred to in claim 9. It is noted that there is no support in the original specification for the second component being vacuum bagged during the step of inserting a sizing tool between the legs and curing the resin while the tool is located between the legs to define a slot. It is suggested to amend to --the first component--.

6. Claim 17 recites the limitation "the components" in line 2. There is insufficient antecedent basis for this limitation in the claim. Since there are first and second components in claim 12, it is unclear which component is being referred to in claim 17. It is noted that there is no support in the original specification for the second component being vacuum bagged during the step of inserting a sizing tool between the legs and curing the resin and film adhesive while the tool is located between the legs to define a slot. It is suggested to amend to --the first component--.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 1, 2, 4, 7-12, 14, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wanthal et al. ("Interlaminar Reinforced Composites Development for Improved Damage Tolerance") optionally in view of Hertzberg (US Patent No. 4,966,802) and further optionally in view of Kohler (US 5,476,704).

Wanthal discloses a method for assembling first and second components by providing a woven pre-form having a base and a pair of spaced apart legs extending from the base (p. 2- woven 3D textile pre-forms; p. 13 pi-shaped pre-form), infusing the pre-form with resin and applying the pre-form onto a first component (pre-preg tape lay-up), then inserting a sizing tool between the legs and curing the resin while the tool is located between the legs to define a slot, then removing the tool (this is considered inherent in order to adhere the second component into the slot) and applying adhesive into the slot, then inserting the second component into the slot, the adhesive in the slot adhering at least one surface of the second component to at least one inner surface of the slot for retaining the second component within the slot (page 13, lines 7 - 14).

As to the limitation that the base of the pre-form is adhered to the first component prior to cure, the assembly of the uncured pre-form and the pre-preg lay-up is considered to read on "adhering the pre-form to the first component" due to the uncured resin in the parts causing adhesion between the parts. Optionally, Hertzberg is cited to show that it is known in the art to provide an adhesive between parts of structural assemblies to adhere the parts together prior to curing in order to prevent delamination and provide a stronger bond than the prior art methods of only utilizing the un-cured resin in the parts for bonding during curing (column 1, lines 19-16; column 3, lines 25-

31). Hertzberg further discloses that the adhesive is placed between the joined surfaces of the parts of the structural assembly and then the structural assembly is cured (column 2, lines 55-68; column 4, line 47 to column 5, line 8; column 9, line 41). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of assembling first and second components as shown by Wanthal by providing adhesive between the interfaces of pre-form and the components in order to reduce delamination and provide a stronger bond as shown by Hertzberg.

As to the limitations that the adhesive is provided in the slot prior to inserting the second component, that the adhesive adheres at least one surface of the second component to at least one surface of the inner surface of the slot and that the second component has a smaller width than the tool, these are considered to be necessary steps in order to paste bond the pre-cured laminate in the pi-clevis using adhesive as disclosed by Wanthal. Additionally, such steps would have been well within the purview of one of ordinary skill in the art in order to perform the method as disclosed by Wanthal. For example, it is well within the purview of one of ordinary skill in the art adhering components together to apply adhesive to either of the parts to be adhered prior to bringing the parts together. Furthermore, one of ordinary skill in the art would readily appreciate that the sizing tool must be larger in width than the second component in order to accommodate both the paste adhesive that is applied in the slot and the second component. Optionally, Kohler discloses one example in the art of adhering a web panel to a Pi-shaped structural component by applying adhesive (4) between the second component and the sides of the flanges; such clearance of the

Art Unit: 1733

adhesive and the second component must be larger than the tool used in the method of Wanthal. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of assembling components together as shown by Wanthal by performing steps that would have been well within the purview of one of ordinary skill in the art when adhering components together as further optionally exemplified by Kohler.

As to claim 2, Hertzberg as discussed above discloses providing adhesive films between component parts in order to provide a stronger bond. As to claim 4, Wanthal discloses that the tool is coated with a non-stick material (release agent), such a coating is conventionally considered to prevent adhesion of the tool to the molded parts and to reduce the force needed to remove the tool after curing. As to claims 7 and 8, Wanthal discloses a Pi shaped pre-form which is conventionally considered to have legs perpendicular to a base and legs parallel to each other. As to claim 9, Wanthal discloses that the assembly of the first component and perform and tool were "bagged and autoclave cured". It is considered conventional in this art that "bagged" curing refers to curing in a vacuum bag. As to claim 10, as discussed above, it would have been well within the purview of one of ordinary skill in the art to provide the tool with a width greater than the second component in order to provide a clearance for the adhesive and the second component within the slot, furthermore, Kohler shows an example of providing a second component within a pi-shaped pre-form with adhesive along the sides of the second component (where a clearance would be required to provide the adhesive along the sides). As to claim 11, Wanthal discloses paste bonding

Art Unit: 1733

a second component in the slot. One of ordinary skill in the art would readily appreciate applying the adhesive by coating the inside surfaces of the legs with adhesives in order to adhere the sides of the component to the legs of the slot. Furthermore, as discussed above, Kohler shows a component within a Pi-shaped slot where adhesive is applied to the inside surfaces of the legs. Most of the limitations of claim 12 have been addressed in reference to claims 1, 8, and 11 above. Wanthal discloses the pre-form is 3 dimensional and the adhesive in the slot is a paste adhesive. As discussed above, Hertzberg discloses providing a film adhesive between component parts where the adhesive is cured during the cure of the parts. As to claim 14, Wanthal discloses that the tool is coated with a non-stick material (release agent), such a coating is conventionally considered to reduce the force needed to remove the tool after curing. As to claim 17, Wanthal discloses that the assembly of the first component and perform and tool were "bagged and autoclave cured". It is considered conventional in this art that "bagged" curing refers to curing in a vacuum bag.

9. Claims 3, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wanthal et al. optionally in view of Hertzberg and further optionally in view of Kohler as applied to claims 1, 12 above, and further in view of Beck et al. (US Patent No. 4,946,369).

Wanthal disclose providing a coating of release agent on the tool inserted in the clevis joint slot. It is well known in the art of curing structural components to provide peel plies or release papers to molds in order to be able to separate the mold from the structural parts after curing. For example, Beck discloses an example of silicone molds



for molding structural composite parts where a peel ply is provided between the composite layers to be molded and the silicone mold. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of assembling the components as shown by Wanthal with a peel ply between the molding tool and the pre-form in order to properly separate the mold from the pre-form after curing as is considered well known in the art and further exemplified by Beck.

10. Claims 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wanthal et al. optionally in view of Hertzberg and further optionally in view of Kohler as applied to claims 1, 12 above, and further in view of Barnes (US Patent No. 6,007,894) and/or Sloman (WO 98/50214).

It is considered well known in the art when curing structural laminates to provide semi-rigid over-presses against the outer surfaces of pre-forms and then placing the entire assembly with the over-presses in a vacuum bag in order to distribute force across the outer surfaces of the pre-form. For example, Barnes discloses a method of curing a structural member by providing an at least semi-rigid over-press (silicone rubber blocks 221) against the outer surface of a pre-form (body sheet 53) (against the base and the exterior of the leg portion) in order to cause the over-press to press the pre-form against the other structural assembly parts (see figure 25; column 8, lines 30-35, column 9, lines 14-33). The over-pressed in Barnes are triangular in cross section (column 6, lines 12-19; column 8, lines 45 and 46). Additionally, Sloman discloses a method of curing a structural member by providing an at least semi-rigid over-press against the outer surface of a pre-form in order to cause the over-press to press the pre-

Art Unit: 1733

form against the other structural assembly parts (pages 1, 3). In particular, over-presses are used for the female features on the non-molded side of the component (page 1). A semi-rigid over-press for a corner concave region is arranged on the composite corner with a base side on the base and a leg side on the leg and an exterior side that extends from an edge of the base side to the edge of the leg side (page 6; figure 2). The over-presses are generally triangular in cross section (see figure 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of assembling components as shown by Wanthal, optionally Hertzberg and Kohler, by providing over-presses along the legs and base of the pre-form in order to distribute force across the outer surfaces of the pre-form and to provide proper pressure and molding to the corner structure of the composite during vacuum molding as is well known in the art and exemplified by Barnes and/or Sloman.

11. Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wanthal et al. optionally in view of Hertzberg and further optionally in view of Kohler as applied to claims 1, 12 above, and further in view of Bersuch et al. (Affordable Composite Structure for Next Generation Fighters) and/or Sheahen et al. (Robust Composite Sandwich Structures) and/or Owens et al. (Tension Pull-off and Shear Test Methods to Characterize 3-D Textile Reinforced Bonded Composite Tee-Joints).

It is well known in the art of bonding structural composites to adhere over-wrap plies to pre-forms in order to provide a more secure joint. For example, Bersuch (page 9) and/or Sheahen (pages 6-7) and/or Owens (page 404, figure 7) disclose applying composite over-wrap plies on an exterior surface of a woven pre-form. It would have

Art Unit: 1733

been obvious to one of ordinary skill in the art at the time of the invention to provide the method of assembling component parts as shown by Wanthal, optionally Hertzberg and Kohler, by adhering over-wrap plies to the pre-form as is well known in the art in order to provide a more secure bond and as further exemplified by Bersuch and/or Sheahen and/or Owens.

As to claim 16 it is noted that the over-wrap plies in Owens also adhere to the adhesive film between the pre-form and the component.

12. Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wanthal et al. in view of Hertzberg and further optionally in view of Kohler as applied to claims 1, 12 above, and further in view of Breuer et al. (DE 19832441 C1 with English equivalent US Patent No. 6,306,239).

Wanthal discloses that the assembly of the first component and perform and tool were "bagged and autoclave cured". It is considered conventional in this art that "bagged" curing refers to curing in a vacuum bag. Furthermore, Breuer is cited to show it is known bond structural assemblies by vacuum bagging the components and the pre-form to ensure proper shaping and bonding (column 7, lines 30-40). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of assembling components as shown by Wanthal by curing in a vacuum bag as suggested by Wanthal and considered conventional and further exemplified by Breuer.

13. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wanthal et al. in view of Hertzberg and further optionally in view of Kohler and further in view of Beck et al. as applied to claim 3 above, and further optionally in view of Breuer et al.

(DE 19832441 C1 with English equivalent US Patent No. 6,306,239) and further in view of Barnes (US Patent No. 6,007,894) and/or Sloman (WO 98/50214).

Most of the limitations of claim 18 are met by the references as discussed above in claims 1, 3, 7, 9, 12, 17. Additionally, Wanthal discloses the second component is pre-cured (page 13).

As to the limitation that the first component is a composite member that is pre-cured, the first component in Wanthal is disclosed as being a pre-preg lay-up. Pre-pregs are by definition partially cured, therefore they are considered to be "pre-cured" (the claim does not require that the part be entirely cured). Optionally, Breuer is cited to show it is known in the art to bond stiffener pre-forms to first component skins where the first component skin is either un-cured or pre-cured (column 5, lines 23-40). It would have been obvious to one of ordinary skill in the art at the time of the invention to one of ordinary skill in the art at the time of the invention to provide the method of assembling components as shown by Wanthal by providing the first component as a pre-cured part as is considered a well known alternative to providing an uncured or pre-preg part as exemplified by Breuer. Only the expected results would be attained.

As to the limitation of providing semi-rigid over-presses, it is considered well known in the art when curing structural laminates to provide semi-rigid over-presses against the outer surfaces of pre-forms and then placing the entire assembly with the over-presses in a vacuum bag in order to distribute force across the outer surfaces of the pre-form. For example, Barnes discloses a method of curing a structural member by providing an at least semi-rigid over-press (silicone rubber blocks 221) against the

outer surface of a pre-form (body sheet 53) (against the base and the exterior of the leg portion) (in a vacuum bag) in order to cause the over-press to press the pre-form against the other structural assembly parts (see figure 25; column 8, lines 30-35, column 9, lines 14-33). Additionally, Sloman discloses a method of curing a structural member by providing an at least semi-rigid over-press against the outer surface of a pre-form ( in a vacuum bag 19) in order to cause the over-press to press the pre-form against the other structural assembly parts (pages 1, 3). In particular, over-presses are used for the female features on the non-molded side of the component (page 1). A semi-rigid over-press for a corner concave region is arranged on the composite corner with a base side on the base and a leg side on the leg and an exterior side that extends from an edge of the base side to the edge of the leg side (page 6;figure 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of assembling components as shown by Wanthal by providing over-presses along the legs and base of the pre-form in order to distribute force across the outer surfaces of the pre-form and to provide proper pressure and molding to the corner structure of the composite during vacuum molding as is well known in the art and exemplified by Barnes and/or Sloman.

### ***Double Patenting***

14. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

Art Unit: 1733

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

15. Claims 1, 2, 4, 7-12, 14, 17 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 6 of copending Application No. 09/946627 in view of Hertzberg and Kohler (optionally further in view of Wanthal for claims 4, 7, 8, 9, 12, 14, 17.)

Claim 6 in 09/946627 discloses the limitations of providing a woven pre-form having a base and a pair of spaced apart legs extending from the base (step a), infusing the pre-form with resin (step a), inserting a sizing tool between the legs and curing the resin while the tool is located between the legs to define a slot (claim 6 and step d) then removing the tool and applying an adhesive into the slot then inserting the second component into the slot the adhesive bonding the second component to the pre-form (claim 6), the second component having a smaller width than the tool (claim 6). As to the limitation of adhering the base of the pre-form to the first component, such is shown by the reference Hertzberg as set forth above. As to the limitation of adhering at least one surface of the second component to at least one inner surface of the slot for retaining the second component within the slot, such is shown by the reference Kohler as set forth above. Claim 2 is disclosed by Hertzberg as discussed above. Claim 10 is disclosed by claim 6 in 09/946627. Kohler discloses claim 11 as discussed above. Claims 4, 7, 8, 9, 12, 14, 17 are met by the reference Wanthal as discussed above.

This is a provisional obviousness-type double patenting rejection.

16. Claims 3, 13 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 6 of copending Application No. 09/946627 in view of Hertzberg and Kohler as discussed above and further in view of Beck et al.

This is a provisional obviousness-type double patenting rejection.

17. Claims 5, 15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 6 of copending Application No. 09/946627 in view of Hertzberg and Kohler as discussed above and further in view of Barnes (US Patent No. 6,007,894) and/or Sloman (WO 98/50214) as set forth above.

This is a provisional obviousness-type double patenting rejection.

18. Claims 6, 16 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 6 of copending Application No. 09/946627 in view of Hertzberg and Kohler as discussed above and further in view of Bersuch et al. and/or Sheahen et al. and/or Owens et al. as set forth above.

This is a provisional obviousness-type double patenting rejection.

19. Claim 18 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 6 of copending Application No. 09/946627 in view of Hertzberg and Kohler as discussed above and

further in view of Beck et al. as applied to claim 3 above, and further optionally in view of Breuer et al. and further in view of Barnes and/or Sloman as set forth above.

This is a provisional obviousness-type double patenting rejection.

20. Claims 1, 2, 4, 7-12, 14, 17 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 3 of copending Application No. 09/973208 in view of Wanthal and Hertzberg and Kohler.

Claim 3 in 09/973208 discloses the limitations of providing a woven pre-form having a base and a pair of spaced apart legs extending from the base (step d), inserting a sizing tool between the legs and curing the resin while the tool is located between the legs to define a slot (claim 3 and step f) then removing the tool and applying an adhesive into the slot then inserting the second component into the slot the adhesive bonding the second component to the pre-form (claim 3 and Wanthal or Kohler), the second component having a smaller width than the tool (claim 3 and Kohler). As to the step of infusing the pre-form with resin such is known as shown by Wanthal or Hertzberg. As to the limitation of adhering the base of the pre-form to the first component, such is shown by the reference Hertzberg as set forth above. As to the limitation of adhering at least one surface of the second component to at least one inner surface of the slot for retaining the second component within the slot, such is shown by the reference Kohler as set forth above. Claim 2 is disclosed by Hertzberg as discussed above. Claim 10 is disclosed by claim 6 in 09/946627. Kohler discloses claim 11 as discussed above. Claims 4, 7, 8, 9, 12, 14, 17 are met by the reference Wanthal as discussed above.



This is a provisional obviousness-type double patenting rejection.

21. Claims 3, 13 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 3 of copending Application No. 09/973208 in view of Wanthal and Hertzberg and Kohler as discussed above and further in view of Beck et al.

This is a provisional obviousness-type double patenting rejection.

22. Claims 5, 15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 6 of copending Application No. 09/946627 in view of Hertzberg and Kohler as discussed above and further in view of Barnes (US Patent No. 6,007,894) and/or Sloman (WO 98/50214) as set forth above.

This is a provisional obviousness-type double patenting rejection.

23. Claims 6, 16 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 3 of copending Application No. 09/973208 in view of Wanthal and Hertzberg and Kohler as discussed above and further in view of Bersuch et al. and/or Sheahen et al. and/or Owens et al. as set forth above.

This is a provisional obviousness-type double patenting rejection.

24. Claim 18 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 3 of copending Application No. 09/973208 in view of Wanthal and Hertzberg and Kohler as discussed above and further in view of Beck et al. as applied to claim 3 above, and further

optionally in view of Breuer et al. and further in view of Barnes and/or Sloman as set forth above.

This is a provisional obviousness-type double patenting rejection.

***Response to Amendment***

25. The Declaration filed on December 31, 2003 has been considered but is insufficient to prove the Wanthal reference is not prior art, see discussion below.

***Response to Arguments***

26. Applicant's arguments filed March 4, 2004 have been fully considered but they are not persuasive.

Applicant argues on page 5-6, that citing the Wanthal reference in an IDS is not an inherent admission that the document is prior art. Examiner agrees, merely citing a reference in an Information Disclosure statement is not an admission that the document is prior art.

Applicant argues on pages 6-10 that the Declaration outlining the underlying facts and circumstances surrounding the Wanthal document with the legal analysis on "printed publications" prove that Wanthal is not prior art. It appears that the Declaration filed on December 31, 2003 by Stephen D. Owen is sufficient to show that the Wanthal reference is not a "printed publication". There appears to be no evidence that the Wanthal reference was distributed as a paper document or any other "printed" form. However, if the paper was distributed without restriction, then the paper would be considered a "printed publication" (see MPEP § 2128). Regardless, the Declaration is

not sufficient to show that the Wanthal reference is not prior art as further discussed below under 35 USC §102(a) as "known by others".

Applicant argues on page 10 that the Wanthal paper does not establish that the invention was "known by others" in this country before the invention by the applicant within the meaning of 35 USC §102(a). The Declaration filed on December 31, 2003 by Stephen D. Owen is not sufficient to show that the Wanthal reference was not "known by others" in this country before the invention by the applicant within the meaning of 35 USC §102(a). There is not sufficient evidence to show that the oral presentation where the Wanthal reference was presented was not accessible to the public. The presentation was presented at a session of the Society for Advancement of Material and Process Engineering (SAMPE) in 2000. *It is noted that Examiner has requested for the particular date of the oral presentation, however Appellant has failed to provide such information.* While the declaration asserts that these sessions are generally restricted to those having certification credentials or employed by a company that is qualified as a US contractor access list, there is no information as to the particular session in which this paper was presented. Furthermore, even if the particular session in which this paper was presented was restricted as described generally in the declaration, those persons who attended the session are considered to be interested and ordinarily skilled in the subject matter or art (joining of stiffeners to skins, particularly in the aircraft industry). There is no evidence that those attending the session were required to keep the information learned at the session confidential. It is also noted that the subject matter of the Wanthal reference relied on is not of a technical level that would prevent

persons attending the session from immediately understanding the subject matter from the oral presentation. It appears that the presentation of the paper was also "in this country" as it was for a US organization (SAMPE) with US government employees and contractors attending, however Appellant has not provided this information. The authors of the Wanthal references meets the "by others" requirement. None of the authors of the Wanthal reference are inventors in the present application; additionally it is noted that the reference cites acknowledgments to others in particular those who contributed to the development and testing of the subject matter. It is further noted that there is no evidence of a confidentiality agreement between the authors. Consequently, the declaration has not sufficiently provided support that the Wanthal reference is not prior art.

Applicant's arguments on pages 10-24 are directed toward the secondary references individually and not in combination with the primary, Wanthal reference. Consequently, these arguments will not be addressed.

Applicant argues on pages 15, 21-22, 24, that the reference Sloman does not suggest that the caul plates or pressure intensifiers are generally triangular in cross-section to distribute a force across the composite components. Both the pressure intensifiers in Barnes (discussed above) and Sloman are triangular in cross section (see figure 2 and page 6 in Sloman).

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gladys J Piazza Corcoran whose telephone number is

Art Unit: 1733

(571) 272-1214. The examiner can normally be reached on M-F 8am-5:30pm (alternate Fridays off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gladys JP Corcoran  
Examiner  
Art Unit 1733

GJPC